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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/506,675      | 09/17/2004  | Jeannot Hironimus    | 258372US6PCT        | 7095             |

22850 7590 06/17/2008  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
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ALEXANDRIA, VA 22314

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| EXAMINER |
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FABIAN-KOVACS, ARPAD

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| ART UNIT | PAPER NUMBER |
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3671

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|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

06/17/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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|------------------------------|--|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/506,675   | <b>Applicant(s)</b><br>HIRONIMUS ET AL. |  |
|                              | <b>Examiner</b><br>Árpád Fábián-Kovács | <b>Art Unit</b><br>3671                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-60 and 62-71 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-57, 65, 66, 70 and 71 is/are allowed.
- 6) ☒ Claim(s) 29-48, 58-60, 62-64 and 67-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29-48, 58-60, 62-64, 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (4777786), in view of Torras (4926621).

In view of *KSR vs Teleflex*, following is a rationale for simple substitution of one known, equivalent element for another to obtain predictable results:

(1) the prior art contained a device which differed from the claimed device by the substitution of some components with other components; more specifically, Arnold teaches an improved agricultural work unit implement carrying mechanism, where at least two front agricultural work implements or gang or reel mowers / cutting devices (32, 34) and at least two lateral work units or gang or reel mowers / cutting devices (36, 38) outside of the work area of the two front work units or cutting devices, which are all mounted on a vehicle frame (10) at a respective front & lateral sides for being capable of pivoted by a hydraulic piston into work or transport positions vertically:

Each mower is supported by a tubular arm 62 having an inner forked end 64 which is pivotally connected at 66 to plates 68 projecting from the vehicle 10. The tubular arm 62 has a forked outer end 70 which is connected to stub shafts 72 on the arm 56. This allows each arm 56, with its attached mower, to be pivoted about connection 66 and hence **raised** at its outboard end (by a **piston and cylinder**, not shown) during travel of the vehicle from one mowing location to another. It also allows each mower to pivot from side to side about a fore and aft axis through stub shafts 72 (the stub shafts 72 are normally located at approximately the lateral center of gravity of the mower).

Art Unit: 3671

- (2) the substituted components and their functions were known in the art; although cutting devices have been well established to take form of reel cutters, blade cutters driven in a variety of known ways, such as, hydraulically, belt, gear; Torras discloses one of the examples of a work unit disposed in a separate housing including a cutting device including a plurality of cutting members each driven in a rotation about a respective upwardly directed axis (fig 1), a respective conveying device (auger 100) capable of moving the cut product;
- (3) one of ordinary skill in the art could have substituted one known element for another and the results of the substitution would have been predictable; because each work implement performs the same function of cutting grass, thus they are interchangeable; it is noted that a drum cutter could have also been applied as another means for cutting grass.

The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**See relevant quotes from KSR v. Teleflex**

As our (The supreme court's) precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ. (KSR v. Teleflex)

A person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. (KSR v Teleflex)

Common sense teaches that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.

A person of ordinary skill is also a person of ordinary creativity, not an automaton.

***Allowable Subject Matter***

Claims 49-57, 65-66, 70-71 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 29-60 & 62-66, and new claims 67-71 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián-Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Árpád Fábián-Kovács/  
Primary Examiner, Art Unit 3671